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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/523,402

02/03/2005

Yasushi Obata

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KRATZ, QUINTOS & HANSON, LLP
1420 K Street, N.W.
Suite 400
WASHINGTON, DC 20005

EXAMINER

SAUNDERS JR, JOSEPH

ART UNIT

PAPER NUMBER

2615

MAIL DATE

DELIVERY MODE

03/28/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/523,402	Applicant(s) OBATA ET AL.	
	Examiner Joseph Saunders	Art Unit 2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 February 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2-6-07, 4-1-05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is the initial office action based on the communications filed February 3, 2005. Claims 1 – 4 are currently pending and considered below.

Drawings

2. Figure 9 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. Claims 1 – 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. The term "rear side", in claims 1, 2, and 3 is a relative term which renders the claim indefinite. The term "rear side" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Since the claim

language does not provide a way of distinguishing the “rear side” from “a front side”, there is no way of determining what constitutes “a rear side”.

5. Claim 1 recites the limitation “the connection terminal” but previously only referred to “a terminal for connection”, therefore there is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1 – 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pua et al. (US 6,490,163), hereinafter Pua, in view of Liu et al. (US 6,567,273), hereinafter Liu, and Nagi et al. (US 6,769,603), hereinafter Nagi.

Claim 1: Pua discloses an audio recording device (portable data storage device) which is provided with a sound collection means (microphone 14), and a terminal (serial bus port 17 with pins 174) for connection to an external device (USB port 21 of a computer 2), the audio recording device comprising: a first casing (body 1), and a second casing (housing 173); wherein one end portion of the second casing is rotatably joined to a lower end portion of the first casing (Figures 6 – 8), and wherein the connection terminal is protrudingly provided on another end portion of the second casing (Figures 6 – 8

show the unshaded portion of pins 174, responsible for making the electrical connection by protruding into USB port of the computer 2, located at the end portion of the housing 173).

Pua does not disclose that the second casing can be folded and stored on a rear side of the first casing and further does not disclose wherein the sound collection means is provided at an upper portion of the first casing.

Liu discloses a similar way of rotatably joining a first casing (card 200) to a second casing (USB plug 202) in Figure 4. Liu goes on to teach that a USB plug 302 can also be designed to rotate in a vertical plane out of card 300 as illustrated in Figure 5. Therefore, given the teachings of Liu that “the USB plugs of FIGS. 1 – 5 can be moved out by pushing, rotating in a horizontal plane, or rotating in a vertical plane,” Column 5 Lines 20 – 65, it would have been obvious to one of ordinary skill in the art to modify the horizontal rotating design of Pua to be a vertical rotating design as taught by Liu, since both designs allow for a USB port to be easily positioned and convenient in use. Further, the design of Liu also affords the advantage that the USB port is received in a corresponding slot without influencing the size and appearance of the first housing or body of the device. Pua and Liu do not disclose to choose the rear side to fold and store the second casing, however there are only two sides to the device of Liu and the front side of a device typically have operating buttons placed on it as illustrated by Nagi in Figure 2A and 2B who teaches a data recording and reproducing device. Therefore, given that there are only two possibilities and folding into the front side may possibly be

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more difficult due to the placement of operating buttons, it would have been obvious to one of ordinary skill in the art at the time of the invention to choose the rear side.

Finally, Nagi teaches a data recording and reproducing apparatus and illustrates in Figure 2A and 2B that to include the microphone (mike 56) in the upper portion of the device opposite the connection terminal 75 located at the bottom of the device.

Therefore since, the placement of the microphone is an obvious matter of design choice, it would have been obvious to one of ordinary skill in the art at the time of the invention given the relationship between different components of a data recording and reproducing apparatus as disclosed by Nagi to place the microphone or sound collection means taught by Pua in the upper portion of the body 1 opposite the rotating housing 173 which includes the terminal. Further, of also be inclined to place the microphone at the upper portion of the body 1 since this location is less likely to interfere with any mechanical rotating functions of housing 173, than a position located closely to housing 173.

Claim 2: Pua, Liu, and Nagi disclose the audio recording device according to claim 1, wherein a recessed portion (slot 308 in Figure 5 of Liu), into which the connection terminal is fitted (USB plug 302), is formed at a raised portion on the rear side of the first casing ("raised portion" surrounds slot 308 in Figure 5).

Claim 3: Pua, Liu, and Nagi disclose the audio recording device according to claim 2, wherein a front end portion of the connection terminal is covered by a wall of the

recessed portion when the second casing is in a folded and stored state ("wall" is illustrated in Figure 5 of Liu since the end portion of 302 is illustrated with dotted lines to show it is hidden).

8. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pua, Liu, and Nagi in view of Ma (US 5,691,882), hereinafter Ma.

Claim 4: Pua, Liu, and Nagi disclose the audio recording device according to any of claims 1 through 3, but do not disclose wherein a supporting member, which abuts the connection terminal, is provided on the rear side of the first casing.

Ma discloses a similar terminal folded into a housing 1 and teaches two half-round clamping plates 13 provided on the rear side of housing 1 support the connection terminal by securing the terminal in the recess. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include a supporting member of clamping plates 13 as disclosed by Ma in the invention of Pua, Liu, and Nagi to retain the terminal in a secure position when not in use.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Saunders whose telephone number is (571) 270-1063. The examiner can normally be reached on Monday - Thursday, 9:00 a.m. - 4:00 p.m., EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on (571) 272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Joseph Saunders/
Examiner, Art Unit 2615
March 20, 2008

/Sinh N Tran/
Supervisory Patent Examiner, Art Unit 2615